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SUBJECT: UGANDA: GOVERNMENT RE-ARRESTS PRA SUSPECTS

REFERENCE: KAMPALA 2110

¶1. (SBU) Summary: The Government re-arrested the remaining Peoples Redemption Army (PRA) suspects, after they were released on bail on March 1, during a confrontation that turned violent on the premises of the High Court. Over the past year, the Executive and President Museveni have defied two court rulings to release the suspects on bail. The Government's refusal to respect the court orders, and now the re-arrest, has heated up the political opposition and increased international attention on the conflict between the Judiciary and Executive. Principal donor countries and members of the Partners for Democracy and Governance (PDG) group -which does not include the U.S.-have initiated joint actions to protest Museveni's unwillingness to respect "the rule of Law."  
End Summary.

¶2. (U) On March 1, police and prison officials re-arrested the nine remaining Peoples Redemption Army (PRA) suspects on murder charges after they were given bail on treason charges, some military or paramilitary units may also have been involved. Justice Eldad Mwangutsya, upholding two earlier Constitutional Court decisions, had referred the suspects to the Court Registrar's office to verify that they fulfilled the conditions for the bail granted on November 16, 2005. Police and other security officials moved in with force to prevent the suspects from leaving. Some of the suspects and/or court attendees were beaten with batons and a defense lawyer was injured, according to foreign diplomats at the court. During negotiations with top judicial officials, the police reportedly agreed not to embarrass the court by re-arresting the PRA suspects on court premises. However, the police and other security elements did apparently deploy within the court with batons and dogs and seized the suspects.

¶3. (U) Minister of Internal Affairs Ruhakana Rugunda said that the PRA had been released on bail for the treason charges against them, and that the Government respected this decision. He then stated that the PRA suspects were being charged with murder and that these offenses were different from the treason case. He added that the police would produce them in court on the new charges.

¶4. (U) The Deputy Supreme Court Justice Laetitia Kikonyogo condemned the heavy police and military presence on the premises of the High Court. Principal Judge James Ogoola said that he was "concerned for the Court, for liberty in this country, and for the peace of this country."

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Background  
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¶5. (SBU) Twenty-three individuals alleged to be part of the rebel group Peoples' Redemption Army (PRA) were arrested in early November 2005 in different parts of Uganda. On November 14, 2005, the General Court Martial (GCM) charged the suspects with treason along with the head of Forum for Democratic Change (FDC), Kizza Besigye. Besigye was President Museveni's primary rival candidate in the

February 2006 elections. The High Court granted bail to 14 out of the 22 original suspects on November 16, 2005, but before their release the military sealed off the court and the suspects were returned to jail. Eight of the 22 suspects did not apply. Besigye was granted bail in January 2006 after significant international pressure. The Uganda Law Society filed a petition in early 2006, in the Constitutional Court challenging the powers of the General Court Martial (GCM) to try civilians.

¶16. (SBU) The Constitutional Court, on January 30, 2006, ruled that it was unconstitutional for the PRA suspects to be tried in both the High Court and the GCM. The Court ruled that the GCM had no jurisdiction over the suspects because they were civilians. In July 2006, the Constitutional Court ruled bail was automatic unless the state proved serious damage if granted. On January 12, 2007, the Constitutional Court upheld the High Court granting of bail in November 2005 and ruled that the PRA treason suspects were being held unconstitutionally. The court ordered their immediate release. In rendering its opinion, the Court stated the continued detention of the suspects infringed on the independence of the judiciary.

¶17. (SBU) The State appealed the Constitutional Court's ruling on January 15, 2007. The state argued that all suspects did not have the right to bail and that bail was not automatic. It was only granted at the discretion of court. According to the State, this argument required the overturning of the High Court Ruling. The Government refused to present the suspects in court on January 25. The Government argued that the first judge erroneously granted bail and that two of the PRA suspects who received amnesty claimed the remaining suspects would return to rebellion if released.

¶18. (SBU) The suspects appeared in the High Court on January 31, 2007, but were remanded in prison until March 1, after the State filed a fresh application seeking the cancellation of the bail

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granted to them on November 16, 2005. The court was, however, unable to hear the application, after each of the suspects demanded that the matter should only be heard in the presence of their lawyers, and the lawyers refused to be present in court, claiming they would be lending credibility to an unconstitutional process. The defense lawyers wrote to the Principal Judge protesting the fresh remand orders and jurisdiction of the High Court judge.

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Museveni Justified Detention  
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¶19. (SBU) The Government's continued detention of the PRA suspects in defiance of court orders has become an increasingly hot issue in the press and within ruling party circles. On February 5, while addressing members of the ruling National Resistance Movement (NRM) caucus, President Museveni felt the need to address the issue. According to several NRM MP's and the opposition press, Museveni told the caucus that he would not release the PRA suspects. According to the press, Museveni told the MPs that "as far as the government is concerned, the PRA suspects will never be released because they are still a security threat to this nation." Museveni warned that if they were released by the court "they shall be re-arrested." He added saying, "if they want to be free, amnesty is the only way for them." His remarks received significant press coverage.

¶110. (SBU) The Attorney General, Kihiddu Makubuya, was called to appear before Parliament's Legal and Judicial Affairs Committee, but refused to discuss the PRA case before consulting with the Cabinet. He was told to re-appear before the committee after his consultation. On February 13, Makubuya told committee members that the Government would abide by the court's decision on March 1.

¶111. (SBU) The detainees--through their lawyers--say that they have been under pressure from the government to request amnesty. In January, three of the original detainees requested amnesty and were released after filing affidavits admitting guilt and stating that it was their belief that their co-defendants would continue subversive

activities if released. Three more suspects requested amnesty on February 10. Opposition figures claim the GOU is trying to force all the suspects to take amnesty and provide evidence against Besigye. Another six requested amnesty on February 15. Lawyers for the accused say that their remaining clients will not seek amnesty because they would have to admit guilt.

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Judiciary, Rights Groups Condemned Detention  
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¶12. (SBU) Benjamin Odoki, Chief Justice of Uganda's Supreme Court has warned the government against attempting to achieve results through unconstitutional means and cautioned that, "if arms of state continue to undermine each other, the country could return to its turbulent past." In a similar reaction, James Ogoola, Principal Judge, said "disregard of the rule of law stifles and suffocates the creative energy of the nation." On February 7, the Acting Chief Registrar of the courts, Lawrence Gidudu, issued a press statement on behalf of the judiciary. It denounced the Executive Branch for disregarding its duty to execute court orders.

¶13. (SBU) The Ugandan Human Rights Commission (UHRC), a government body, condemned the continued detention, stating that the act (or inaction) by government "constitutes a violation of the right to personal liberty and demonstrates lack of respect of the authority of the judiciary as one of the three arms of Government, and seriously undermines the rule of law and the supremacy of the Constitution." The Foundation for Human Rights Initiative (FHRI) said, "the continued denial of the right to bail and the use of force against individuals seeking to express themselves negate the principal of democratic governance."

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Opposition Reactions to Continued Detention  
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¶14. (SBU) Opposition MPs walked out of Parliament on January 30, protesting the continued detention of the PRA suspects and human rights violations. The opposition returned on February 20, after making statements that the rule of law must be respected. On February 5, the largest party, Forum for Democratic Change (FDC), said it would resort to "other means" to resolve the PRA issue because the courts had been "castrated." Besigye, also a co-defendant, stated that there was "a complete breakdown in the constitutional order in Uganda when the Executive has made judicial directives impotent. The people of Uganda should know that the constitutional order has been abrogated." Besigye claims that the President has personalized the case and would not be deterred from

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his campaign of clamping down on political opposition prior to the Commonwealth Heads of Government Meeting in November.

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Comment  
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¶15. (SBU) The Executive Branch will likely continue holding the suspects. It will keep up the pressure to persuade the suspects to accept amnesty and/or implicate others, particularly Besigye. Various diplomatic missions have warned the GOU at the highest levels that the Executive's continued disrespect of the judicial rulings is undermining rule of law and could have negative consequences in the future.  
BROWNING